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c 91 Income Tax Amendment Act, 1989

Ontario

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CHAPTER 91

An Act to amend the Income Tax Act

Assented to December 20th, 1989

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 46, section 1 and 1988, chapter 73, section 1, is further amended by adding thereto the following subsection:

(6) Where a provision (in this subsection referred to as "that section") of the Federal Act or the Federal Regulations is made applicable for the purposes of this Act, that section, as amended from time to time heretofore or hereafter, applies with such modifications as the circumstances require for the purposes of this Act as though it had been enacted as a provision of this Act and, in applying that section for the purposes of this Act, in addition to any other modifications required by the circumstances,

Modification
of Federal
provisions

- (a) a reference in that section to tax under Part I of the Federal Act shall be read as a reference to tax under this Act;
- (b) where that section contains a reference to tax under any of Parts I.1 to XIV of the Federal Act, that section shall be read without reference therein to tax under any of those Parts and without reference to any portion of that section which applies only to or in respect of tax under any of those Parts;
- (c) a reference in that section to a particular provision of the Federal Act that is the same as or similar to a provision of this Act shall be read as a reference to the provision of this Act;
- (d) a reference in that section to a particular provision of the Federal Act that applies for the purposes of this Act shall be read as a reference to the partic-

ular provision as it applies for the purposes of this Act;

- (e) where that section contains a reference to any of Parts I.1 to XIV of the Federal Act or to a provision in any of those Parts, that section shall be read without reference therein to that Part or without reference to that provision, as the case may be, and without reference to any portion of that section that applies only because of the application of any of those Parts or the application of a provision in any of those Parts;
- (f) where that section contains a reference to the *Bankruptcy Act* (Canada), that section shall be read without reference therein to the *Bankruptcy Act* (Canada);
- (g) a reference in that section to a Federal regulation that applies for the purposes of this Act shall be read as a reference to the regulation as it applies for the purposes of this Act;
- (h) a reference in that section to a word or expression set out in Column 1 of the following Table shall be read as a reference to the word or expression set out opposite thereto in Column 2 of the following Table:

R.S.C. 1985,
c. B-3

TABLE

Column 1	Column 2
Her Majesty	Her Majesty in right of Ontario
Canada	Ontario
Department of National Revenue	Ministry of Revenue
Deputy Minister of National Revenue for Taxation	Deputy Head
Deputy Attorney General of Canada	Deputy Attorney General of Ontario
Tax Court of Canada	Supreme Court of Ontario

<i>Tax Court of Canada Act</i>	<i>Courts of Justice Act, 1984</i>
Federal Court of Canada	Supreme Court of Ontario
<i>Federal Court Act</i>	<i>Courts of Justice Act, 1984</i>
Registrar of the Tax Court of Canada	Registrar of the Supreme Court of Ontario or local Registrar of that Court for the county or district in which the particular taxpayer resides
in the Registry of the Federal Court	with the Registrar of the Supreme Court of Ontario or local Registrar of that Court for the county or district in which the particular taxpayer resides

2.—(1) Clause 3 (5) (m) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 3, is amended by striking out “and” at the end thereof.

(2) Clause 3 (5) (n) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 3, is repealed and the following substituted therefor:

- (n) 52 per cent in respect of the 1989 taxation year; and
- (o) 53 per cent in respect of the 1990 and subsequent taxation years.

(3) Clause 3 (8) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 3, is repealed and the following substituted therefor:

- (a) the amount, if any, by which the non-business income tax paid by the individual for the year to the government of the country other than Canada exceeds,
 - (i) where section 127.5 of the Federal Act does not apply to the individual for the taxation year, all amounts claimed by the individual as deductions from tax under that Act for the year under subsection 126(1) or 180.1(1.1) of that Act, or
 - (ii) where section 127.5 of the Federal Act applies to the individual for the year, the aggregate of,

- (A) the individual's special foreign tax credit for the year determined under section 127.54 of that Act, and
- (B) the amount claimed by the individual as a deduction from tax under that Act for the year under subsection 180.1(1.1) of that Act; and

.

(4) Subclause 3 (8) (b) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 3, is repealed and the following substituted therefor:

- (i) the amount determined in respect of the individual for the year under subparagraph 126(1)(b)(i) of the Federal Act,

.

3. Subsection 7 (2c) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 5, is amended by striking out "and" at the end of clause (a) and by adding thereto the following clauses:

- (c) no amount may be claimed under subclause (2) (b) (i) by an individual in respect of whom another individual has claimed an amount under subclause (2) (b) (iii); and
- (d) no amount may be claimed by an individual under subclause (2) (b) (iii) in respect of an individual who has claimed an amount under subclause (2) (b) (i).

4. Subsections 8 (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Idem

(2) Subsections 150(2) to (4) of the Federal Act apply for the purposes of this Act and, in the application thereof, a reference to subsection 150(1) of the Federal Act shall be read as a reference to subsection (1).

5. Section 9 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 73, section 6, is repealed and the following substituted therefor:

Assessments
and
withholding

9.—(1) Section 151 and subsections 152(1), (2), (3), (4), (4.1), (5), (6), (7) and (8) and 153(1), (1.1), (1.2), (1.3), (1.4)

and (2) and (3) of the Federal Act apply for the purposes of this Act and, in the application thereof, any reference therein to section 150 or to subsection 150(1) of the Federal Act shall be read to include a reference to subsection 8 (1) of this Act.

(2) Where an individual pays tax for a taxation year under the Federal Act computed in accordance with subsection 117(6) of that Act, the individual may pay in lieu of the amount of tax otherwise determined under one or more sections of this Act the amount or amounts determined by reference to one or more tables prepared in accordance with prescribed rules. Tax tables

6. Section 10 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 4, 1985, chapter 12, section 4 and 1986, chapter 40, section 5, is repealed and the following substituted therefor:

10. Where a collection agreement is in effect and the tax payable by a taxpayer for a taxation year under Part I of the Federal Act is reassessed by the Minister, the Provincial Minister shall reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require, notwithstanding that more than three years may have passed since the day of mailing of a notice of an original assessment of tax, interest or penalties payable under this Act by the taxpayer for the taxation year, or of a notification that no tax is payable under this Act by the taxpayer for the year. Reassessments

7. Section 11 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 5 and 1984, chapter 50, section 4, is repealed.

8. Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 50, section 5, is repealed and the following substituted therefor:

(1) Every individual whose chief source of income is farming or fishing, other than an individual to whom subsection 153(2) of the Federal Act applies for the purposes of this Act, shall pay to the Treasurer, Payment of tax by farmers and fishermen

(a) on or before the 31st day of December in each taxation year, two-thirds of,

(i) the amount estimated by the individual under section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable by the individual under this Act for

the taxation year, computed without reference to section 127.3 of the Federal Act, or

- (ii) the tax payable under this Act by the individual for the immediately preceding taxation year; and

- (b) on or before the 30th day of April in the next following year, the remainder of the tax as estimated under section 151 of the Federal Act as it applies for the purposes of this Act.

9. Subsection 13 (1) of the said Act is repealed and the following substituted therefor:

Payment of
tax by other
individuals

(1) Every individual, other than an individual to whom subsection 153(2) of the Federal Act applies for the purposes of this Act or to whom section 12 applies, shall pay to the Treasurer,

- (a) on or before the last days of the months of March, June, September and December in each taxation year ending before the 1st day of January, 1990, and on or before the 15th days of March, June, September and December in each taxation year commencing after the 31st day of December, 1989, an amount equal to one-quarter of,
 - (i) the amount estimated by the individual under section 151 of the Federal Act, as it applies for the purposes of this Act, to be the tax payable by the individual under this Act for the taxation year, computed without reference to section 127.3 of the Federal Act, or
 - (ii) the tax payable by the individual under this Act for the immediately preceding taxation year; and
- (b) on or before the 30th day of April in the next following year, the remainder of the tax as estimated under section 151 of the Federal Act, as it applies for the purposes of this Act.

10. Section 14 of the said Act is repealed and the following substituted therefor:

Returns,
payments and
interest

14. Subsection 70(2), subsection 104(2), paragraph 104(23)(e), sections 158, 159 and 160, subsection 160.1(1), sections 160.2 and 160.3 and subsections 161(1), (2), (2.1),

(2.2), (3), (4), (4.1), (5), (6), (6.1), (7), (9) and (11) of the Federal Act apply for the purposes of this Act.

11. The said Act is amended by adding thereto the following section:

14a. Interest computed under any of subsections 161(1), (2) and (11), 164(3), (3.1) and (4) and 227(8.3) and (9.2) of the Federal Act, as they apply for the purposes of this Act, shall be compounded daily and, where interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for this section, have ceased to be computed under that provision, interest at the rate provided by that provision shall be compounded daily on unpaid interest from that day to the day it is paid.

Compound
interest

12. Section 15 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 12, section 7, is repealed and the following substituted therefor:

15. In applying subsection 160.1(1) of the Federal Act for the purposes of this Act, "refund" includes a refund that arises by reason of a provision of this Act which,

Refund of
tax credits

- (a) allows a taxpayer to deduct an amount from the tax payable under this Act; or
- (b) deems an amount to have been paid by a taxpayer as or on account of tax payable under this Act by him or her.

13. Section 16 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 50, section 6, 1985, chapter 12, section 8, 1986, chapter 40, section 6 and 1988, chapter 73, section 7, is repealed and the following substituted therefor:

16. Where a collection agreement is in effect and a taxpayer is deemed under subsection 161(4) of the Federal Act to be liable to pay, in respect of tax payable under Part I of the Federal Act for a particular taxation year, a part or instalment computed by reference to an amount described in paragraph 161(4)(c) or (d) of the Federal Act, the taxpayer shall be deemed for the purposes of subsection 161(2) of the Federal Act, as it applies for the purposes of this Act, to be liable to pay, in respect of tax payable under this Act for the particular year, a part or instalment computed by reference to the same paragraph of subsection 161(4) of the Federal Act, as it applies for the purposes of this Act.

Amount on
which
instalment
computed.

14. Section 17 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 7, is repealed and the following substituted therefor:

Penalty for
failure to file
a return

17.—(1) Every person who fails to file a return of income for an individual for a taxation year as and when required by subsection 8 (1) is liable to a penalty equal to the aggregate of,

- (a) an amount equal to 5 per cent of the individual's tax for the year under this Act that was unpaid when the return was required to be filed; and
- (b) the product obtained when 1 per cent of the individual's tax for the year under this Act that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twelve, from the date on which the return was required to be filed to the date on which the return was filed.

Penalty for
repeated
failure to file
returns

(2) Every person,

- (a) who fails to file a return of income for a taxation year as and when required by subsection 8 (1);
- (b) on whom a demand for a return for the year has been made under subsection 150(2) of the Federal Act, as it applies for the purposes of this Act; and
- (c) who, at the time of failure, had been assessed for a penalty under subsection (1) or this subsection in respect of a return of income for any of the three preceding taxation years,

is liable to a penalty equal to the aggregate of,

- (d) an amount equal to 10 per cent of the individual's tax for the year under this Act that was unpaid when the return was required to be filed; and
- (e) the product obtained when 2 per cent of the individual's tax for the year under this Act that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding twenty, from the date on which the return was required to be filed to the date on which the return was filed.

(3) Every person who fails to file a return as required by subsection 150(3) of the Federal Act, as it applies for the purposes of this Act, is liable to a penalty of \$10 for each day of default, to a total penalty of \$50. Idem

(4) Every person who fails to provide any information required under this Act or a regulation, or under a provision of the Federal Act or of the Federal Regulations which applies for the purposes of this Act is, except where, in the case of an individual, the Minister has waived the penalty, liable to a penalty of \$100 for every failure unless, in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person. Failure to provide information

(5) Every person who fails,

General penalty

- (a) to make an information return as and when required under this Act or a regulation, or under a provision of the Federal Act or the Federal Regulations which applies for the purposes of this Act; or
- (b) to comply with a duty or obligation imposed on the person under this Act or a regulation, or under a provision of the Federal Act or Federal Regulations which applies for the purposes of this Act,

is liable in respect of each such failure, except where another provision of this Act sets out a penalty for the failure, to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

(6) Where a collection agreement is in effect, the Minister may refrain from levying or may reduce a penalty payable under this section if the person who is liable to the penalty is required to pay a penalty under section 162 of the Federal Act in respect of the same failure. Minister's discretion where collection agreement in force

15. Section 18 of the said Act is repealed and the following substituted therefor:

18.—(1) Every person who,

Penalty for repeated failure to report an amount

- (a) fails to report an amount required to be included in computing income in a return filed for a taxation year under subsection 150(2), (3) or (4) of the Federal Act, as it applies for the purposes of this Act, or subsection 8 (1); and

- (b) has failed to report an amount required to be included in any return filed for any of the three preceding taxation years under subsection 150(2), (3) or (4) of the Federal Act, as it applies for the purposes of this Act, or subsection 8 (1),

is liable to a penalty equal to 10 per cent of the amount described in clause (a), unless the person is liable to a penalty under subsection (2) in respect of that amount.

False
statements or
omissions

(2) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act or a provision of the Federal Act, as it applies for the purposes of this Act, has made or participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or a regulation, or a provision of the Federal Act or of the Federal Regulations as that provision applies for the purposes of this Act, is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable under this Act if the individual's taxable income for the year were computed by adding to the taxable income reported in the return for the year that portion of the individual's understatement of income for the year that is reasonably attributable to the false statement or omission, and if the individual's tax payable for the year were computed by subtracting from the deductions from the tax otherwise payable for the year the portion of those deductions that may reasonably be attributed to the false statement or omission,

exceeds,

- (b) the tax for the year that would have been payable under this Act had the individual's tax payable for the year been assessed on the basis of the information provided in the individual's return for the year.

Interpretation

(3) For the purposes of subsection (2), the taxable income reported by a person in his or her return for a taxation year shall be deemed not to be less than nil and the "understatement of income for a year" of a person has the meaning assigned to that expression by subsection 163(2.1) of the Federal Act.

(4) Where, in any appeal under this Act, a penalty assessed by the Minister under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

Burden of proof

(5) Where a collection agreement is in effect, the Minister may refrain from levying or may reduce a penalty imposed under this section if the person who is liable to the penalty is required to pay a penalty under section 163 of the Federal Act in respect of the same failure or the same false statement or omission, as the case may be.

Minister's discretion where collection agreement in force

18a. Every person who fails to pay all or any part of an instalment of tax under this Act for a taxation year on or before the day on which the instalment is required to be paid by this Act, or by a provision of the Federal Act that applies for the purposes of this Act, is liable to a penalty equal to 50 per cent of the amount, if any, by which the interest payable by him or her in respect of all instalments for the year under section 161 of the Federal Act, as it applies for the purposes of this Act, exceeds the greater of,

Late or deficient instalments

(a) \$1,000; and

(b) 25 per cent of the interest that would have been payable by him or her in respect of all instalments for the year under section 161 of the Federal Act, as it applies for the purposes of this Act, if no instalments had been made for that year.

16. Section 19 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 12, section 9 and 1986, chapter 40, section 7, is repealed and the following substituted therefor:

19.—(1) Subsections 164(1), (1.1), (1.2), (1.3), (1.31), (2), (3), (3.1), (4), (4.1), (5), (5.1), (6) and (7) of the Federal Act apply for the purposes of this Act.

Refunds

(2) Where a collection agreement is in effect and, by reason of a decision referred to in subsection 164(4.1) of the Federal Act, a repayment of tax, interest or penalties under that Act for a taxation year is made to a taxpayer, or any security accepted under that Act for such tax, interest or penalties is surrendered to the taxpayer, subsection 164(4.1) of the Federal Act, as it applies for the purposes of this Act, applies to any overpayment of tax, interest or penalties under this Act for the taxation year that arises by reason of the decision.

Refund based on Federal refunds

17. Section 20 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 40, section 8 and 1989, chapter 56, section 17, is repealed and the following substituted therefor:

Objections to assessments

20. Section 165 of the Federal Act applies for the purposes of this Act.

18. Subsection 21 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 40, section 9, is further amended,

- (a) by striking out "subsection 20 (1)" in the second line and inserting in lieu thereof "subsection 165(1) of the Federal Act, as it applies for the purposes of this Act,"; and
- (b) by striking out "subsection 20 (3)" in the thirteenth line and inserting in lieu thereof "subsection 165(3) of the Federal Act, as it applies for the purposes of this Act,".

19. Section 24 of the said Act is repealed and the following substituted therefor:

Proceedings *in camera*, irregularities in assessments

24. Sections 166, 167 and 179 of the Federal Act apply for the purposes of this Act.

20. Section 26 of the said Act is repealed.

21. Section 27 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 40, section 10, is repealed and the following substituted therefor:

Administration, garnishment, collection

27. Sections 220, 224, 225.1 and 225.2 of the Federal Act apply for the purposes of this Act.

22. Section 31 of the said Act is repealed and the following substituted therefor:

Certificate of amount payable

31.—(1) An amount payable under this Act by a person (in this section referred to as a "debtor") that has not been paid, or any part of an amount payable under this Act by the debtor that has not been paid, may be certified by the Minister as an amount payable by the debtor.

Registration of certificate in court

(2) On production to the Supreme Court, a certificate made under subsection (1) in respect of a debtor shall be registered in the court and when so registered has the same effect, and all proceedings may be taken thereon as if the certificate were a judgment obtained in the court against the

debtor for a debt in the amount certified plus interest thereon to the day of payment as provided by law and, for the purposes of any such proceedings, the certificate shall be deemed to be a judgment of the court against the debtor for a debt due to Her Majesty in right of Ontario, enforceable in the amount certified plus interest thereon to the day of payment as provided by law.

(3) All reasonable costs and charges incurred or paid in respect of the registration in the court of a certificate made under subsection (1) or in respect of any proceedings taken to collect an amount certified are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered. Costs

(4) Where a collection agreement is in effect, subsections (1) to (3) do not apply, but the Minister may proceed under section 223 of the Federal Act for the purpose of collecting any amount payable under this Act by a taxpayer. Proceeding under section 223 of Federal Act

23. Section 33 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 46, section 8 and 1984, chapter 50, section 7, is repealed.

24. Section 34 of the said Act is repealed and the following substituted therefor:

34.—(1) Where a person has failed to pay an amount as required by this Act, the Minister, by registered mail addressed to the person's last known address, may give thirty days notice to the person of the Minister's intention to direct that the person's goods and chattels be seized and sold, and, if the person fails to make the payment before the expiration of the thirty days, the Minister may issue a certificate of the failure and direct that the person's goods and chattels that are located in the Province of Ontario be seized. Direction to seize chattels

(2) Subsections 225(2), (3), (4) and (5) of the Federal Act apply for the purposes of this Act. Idem

25. Subsection 35 (2) of the said Act is amended by striking out "subsections 34 (2) to (5) are thereupon applicable with necessary modifications" in the fifth and sixth lines and inserting in lieu thereof "thereupon subsections 225(2), (3), (4) and (5) of the Federal Act apply".

26.—(1) Subsection 36 (1) of the said Act is repealed and the following substituted therefor:

Moneys
withheld

(1) Subsections 227(1), (2), (3), (4), (5), (8), (8.2), (8.3), (8.4), (8.5), (9), (9.2), (9.4) and (9.5) of the Federal Act apply for the purposes of this Act.

(2) Subsections 36 (2) and (3) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 46, section 9, are repealed.

(3) Subsections 36 (4) and (5) of the said Act are repealed.

(4) Subsection 36 (6) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 40, section 11, is repealed.

(5) Subsection 36 (7) of the said Act is repealed.

(6) Subsection 36 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 12, section 11, is repealed and the following substituted therefor:

Assessment

(8) The Minister may assess,

- (a) any person for any amount that has been deducted or withheld by that person under this Act or a regulation made under this Act, or under a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act; and
- (b) any person for any amount payable by that person under subsection 224(4) or (4.1) or 227(8), (8.3), (8.4), (8.5), (9), (9.2), (9.4) or (9.5) of the Federal Act as they apply for the purposes of this Act, or section 36a or 41 of this Act.

Application
of ss. 9, 14-
25

(8a) Section 9 and sections 14 to 25 apply with necessary modifications where the Minister sends a notice of assessment to a person mentioned in subsection (8).

27. Subsection 36a (1) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 50, section 9, is amended by striking out "section 11" in the second line and inserting in lieu thereof "subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,".

28.—(1) Subsection 37 (2) of the said Act is repealed and the following substituted therefor:

Books and
records

(2) Subsections 230(2.1), (3), (4), (5), (6), (7) and (8) of the Federal Act apply for the purposes of this Act and, in the application thereof, any reference to subsection 230(1) of the Federal Act shall be read as a reference to subsection (1).

(2) Subsection 37 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 50, section 10, is repealed.

29. Sections 38 and 39 of the said Act are repealed and the following substituted therefor:

38.—(1) Sections 231 to 231.5, 232, 233 and 236 of the Federal Act and sections 142 to 144 of the *Provincial Offences Act* apply for the purposes of this Act.

Inspections,
privilege,
information
returns and
corporate
execution
R.S.O. 1980,
c. 400

(2) Where a warrant is issued under section 142 of the *Provincial Offences Act*, the provisions of sections 142 to 144 of that Act, and not sections 231 to 231.5 and 232 of the Federal Act, apply for the purposes of this Act.

Idem
R.S.O. 1980,
c. 400

30. Section 40 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 46, section 10, is repealed.

31. Section 42 of the said Act is repealed.

32. Section 43 of the said Act is repealed and the following substituted therefor:

43.—(1) Every person is guilty of an offence who,

Offence

(a) fails to file a return as and when required by or under this Act or a regulation, or by or under a provision of the Federal Act or of the Federal Regulations as the provision applies for the purposes of this Act;

(b) fails to comply with any of subsections 153(1), 227(5) and 230(3), (4) and (5) and sections 231 to 231.5 and 232 of the Federal Act, as they apply for the purposes of this Act; or

(c) fails to comply with subsection 37 (1).

(2) Every person who is guilty of an offence under subsection (1) is liable on conviction, in addition to any penalty otherwise provided, to a fine of not less than \$1,000 and not more than \$25,000.

Penalty

(3) A court that convicts a person of an offence under subsection (1) for failure to comply with a provision of this Act or a regulation, or a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act, may

Compliance
order

make such order as the court considers proper in order to enforce compliance with the provision.

Saving

(4) A person convicted under this section for failure to comply with a provision of this Act or a regulation, or a provision of the Federal Act or of the Federal Regulations that applies for the purposes of this Act, is not liable to a penalty under subsection 227(8), (8.5), (9) or (9.5) of the Federal Act, as those subsections apply for the purposes of this Act, or under section 17 or 41 for the same failure unless the person was assessed for that penalty or that penalty was demanded from the person before the information or complaint giving rise to the conviction was laid or made.

33.—(1) Clauses 44 (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) made, or participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation or by or under a provision of the Federal Act or of the Federal Regulations as that provision applies for the purposes of this Act;
- (b) destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer for the purpose of attempting to,
 - (i) evade the payment of tax imposed by this Act, or
 - (ii) obtain a tax credit under section 7 in excess of the amount, if any, otherwise deductible or payable, as the case may be, under section 7.

(2) Clause 44 (f) of the said Act is repealed and the following substituted therefor:

- (f) a fine of not less than 50 per cent and not more than 200 per cent of the amount of the tax that was sought to be evaded or the tax credit that was sought to be obtained, as applicable; or

34.—(1) Subsection 46 (1) of the said Act is repealed and the following substituted therefor:

(1) Every person is guilty of an offence who, while employed directly or indirectly in the administration of this Act or in the development and evaluation of tax policy for the Government of Ontario,

Offence,
secrecy

- (a) knowingly communicates or knowingly allows to be communicated to any person not legally entitled thereto any information obtained under this Act;
- (b) knowingly allows any person not legally entitled thereto to inspect or to have access to any book, record, writing, return or other document obtained under this Act; or
- (c) knowingly uses, other than in the course of his or her duties in connection with the administration or enforcement of this Act, or in the development and evaluation of tax policy for the Government of Ontario, any information obtained under this Act.

(1a) Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Penalty

(2) Subsection 46 (2) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) the Provincial Minister and the Treasurer of Ontario as may be required in connection with the development and evaluation of tax policy for the Government of Ontario.

35.—(1) Subsection 49 (3) of the said Act is repealed and the following substituted therefor:

(3) An information or complaint under the *Provincial Offences Act* in respect of an offence under this Act may be laid or made on or before the day that is eight years after the day on which the subject-matter of the information or complaint arose.

Limitation
R.S.O. 1980,
c. 400

(2) Subsection 49 (12) of the said Act is repealed and the following substituted therefor:

(12) For the purposes of this Act, the day of mailing of any notice or notification described in subsection 152(4) of the Federal Act as it applies for the purposes of this Act or of any

Day of
mailing

notice of assessment shall be presumed to be the date of such notice or notification.

Day of
receipt

(12a) For the purposes of this Act, anything sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it is sent on the day that it was mailed, except that a remittance of an amount deducted or withheld as required by this Act or a regulation, or by a provision of the Federal Act or of the Federal Regulations as it applies for the purposes of this Act, shall be deemed to have been remitted on the day it is received by the Treasurer.

36. Section 53 of the said Act is amended by striking out “section 11” in the second line and inserting in lieu thereof “subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,”.

37. Subsection 54 (2) of the said Act is amended by striking out “section 19 of this Act” in the sixth line and inserting in lieu thereof “subsections 164(1), (2) and (3) of the Federal Act, as they apply for the purposes of this Act,”.

38.—(1) Subsection 55 (4) of the said Act is amended by striking out “section 11” in the third line and inserting in lieu thereof “subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,”.

(2) Subsection 55 (5) of the said Act is amended by striking out “section 11” in the second line and inserting in lieu thereof “subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,”.

(3) Subsection 55 (7) of the said Act is amended by striking out “section 19 of this Act” in the eighth and ninth lines and inserting in lieu thereof “subsections 164(1), (2) and (3) of the Federal Act, as they apply for the purposes of this Act,”.

(4) Subsection 55 (8) of the said Act is amended by striking out “section 11” in the fifteenth line and inserting in lieu thereof “subsection 153(1) of the Federal Act, as it applies for the purposes of this Act,”.

Application
of certain
sections

39.—(1) Clause 3 (8) (a) and subclause 3 (8) (b) (i) of the said Act, as re-enacted by subsections 2 (3) and (4), apply in respect of taxation years ending after the 31st day of December, 1985.

Idem

(2) Interest computed under section 14a of the said Act, as enacted by section 11, in respect of a period ending before the

1st day of January, 1987 shall be compounded after the 31st day of December, 1986.

(3) Clauses 7 (2c) (c) and (d) of the said Act, as enacted by section 3 of this Act, apply in respect of taxation years ending after the 31st day of December, 1987. Idem

40.—(1) Except as provided in subsections (2) to (7), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 16 shall be deemed to have come into force on the 1st day of January, 1985. Idem

(3) Sections 10, 12 and 13 shall be deemed to have come into force on the 28th day of October, 1985. Idem

(4) Subsections 2 (3) and (4) shall be deemed to have come into force on the 1st day of January, 1986. Idem

(5) Section 11 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(6) Section 3 shall be deemed to have come into force on the 1st day of January, 1988. Idem

(7) Subsections 2 (1) and (2) come into force on the 1st day of January, 1990. Idem

41. The short title of this Act is the *Income Tax Amendment Act, 1989*. Short title

